

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

IN RE: THE 2017 ALLEGHENY  
COUNTY INVESTIGATING  
GRAND JURY:  
CASE A


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CP-02-MD-6182-2016

REPORT TWO

TO THE HONORABLE JILL E. RANGOS, SUPERVISING JUDGE:

We, the members of the 2017 Allegheny County Investigating Grand Jury, based upon facts received in the course of an investigation authorized by the Investigating Grand Jury Act, recommend administrative and policy action in the public interest. So finding, with not fewer than twelve concurring, we do hereby adopt this Report for submission to the Supervising Judge.

  
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Foreperson, The 2017 Allegheny  
County Investigating Grand Jury

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## INTRODUCTION

Following receipt of a referral from the Auditor General, Detectives from the Allegheny County District Attorney's Investigative Unit ("DAI Detectives") commenced an investigation into the financial condition of the Penn Hills School District ("the District"). That investigation continued until it became apparent that the resources of a Grand Jury would be necessary in order to adequately carry out the inquiry. Legal Advisors to this Grand Jury filed a Notice of Submission stating that the unique investigative tools inherent in a Grand Jury were needed to pursue an investigation into the financial circumstances underlying the construction of two school buildings in the District. These tools included the power to compel the attendance of witnesses and to obtain testimony from such witnesses under oath, the power to obtain testimony from witnesses who assert 5<sup>th</sup> Amendment rights through grants of immunity where warranted, the power to pursue before the Court both civil and criminal contempt proceedings when necessary, as well as all other resources of the Grand Jury required to adequately investigate these matters. The Notice of Submission was reviewed and approved by the Supervising Judge of the Grand Jury on December 16, 2016.

During the course of that investigation, this Grand Jury became aware of questionable conduct by members of the Penn Hills School Board ("the Board") and the District's Solicitor which raised ethical concerns. In reviewing the continually declining financial condition of the District, we discovered several instances where the District's Solicitor provided free legal representation to various members of the Board on personal matters. The members who received the benefit of free legal work repeatedly voted on resolutions and payments that financially benefited the Solicitor. At no point

did any member of the Board abstain from a vote that benefited the Solicitor, nor did the Solicitor advise the Board of any conflict of interest in the votes.

Numerous witnesses have testified before this Grand Jury and a multitude of subpoenas securing documents have been served upon numerous persons, businesses, and governmental entities. Ultimately, this Grand Jury is unable to recommend the filing of criminal charges by way of a Presentment in this case. Nevertheless, our investigation has uncovered questionable practices in connection with the payments by the District to its Solicitor as well as a lackadaisical approach by specific Board members and the Solicitor towards any conflict of interest. This Report addresses our findings, conclusions, and recommendations.

### **SUMMARY**

In December of 2007, the Board, including three newly elected members, voted to terminate their long-time Solicitor and hire Bruce E. Dice & Associates (Dice & Associates), with their associate Craig Alexander acting as the primary attorney, to represent the District. In the years following, members of the Board voted each month to issue payment to Alexander for his services.

In one of his first votes as a Board member, Donald Kuhn, Jr. voted to hire Alexander despite the fact that Alexander was representing him on personal legal matters at the time. Alexander continuously provided free legal services to Kuhn, his family and other Board members while representing the District. Despite this, and other conflicts, Kuhn and the other Board members voted to either retain and/or pay Alexander. Even when Alexander's representation of the District was specifically

challenged, those receiving benefits and favors from Alexander voted to maintain his employment with the Board. At no time did Alexander or any of the Board members reveal these conflicts to the public. Throughout this time the District paid Dice & Associates nearly \$2 million.

Although the conduct described below raises ethical concerns which may rise to potential criminal liability on the part of the Solicitor and those Board members who have received free legal advice, we are not recommending criminal charges at this time. The focus of the Grand Jury investigation was the financial condition of the District. Given the imminence of the potential financial breakdown of the District, we have prioritized the need to release our findings regarding the District. The conduct described below, while discovered through our investigative process, was not the focus of our investigation and, therefore, we did not investigate beyond the instances of questionable conduct described herein. Further investigation of criminal charges against any one of those implicated could delay the release of this Grand Jury's findings and may require a grant of immunity to others involved in order to prove the appropriate mens rea.

Therefore, we opt to refer these matters involving the solicitor, Craig Alexander of Bruce E. Dice & Associates, for further investigation by the Pennsylvania Disciplinary Board. Should it be determined that sufficient evidence to support criminal charges exists, we expect these matters will be fully investigated and pursued by the appropriate authorities.

## **FACTUAL FINDINGS**

During the course of our investigation, this Grand Jury received information regarding several instances where members of the Board failed to acknowledge or disclose conflicts of interests when voting. The most egregious example of conflicts that were never revealed was in the hiring of Bruce E. Dice & Associates ("Dice & Associates"), the District's current Solicitor.<sup>1</sup> Members repeatedly failed to abstain from votes regarding Dice & Associates, or otherwise disclose personal relationships with the firm or Craig Alexander, the associate who represented the District. Alexander not only provided Board members with tickets to sporting events and money for their alcohol bills at their retreats, but also continually provided free legal services and other "favors" to members of the Board, in what appeared to be an attempt to maintain his firm's employment with the District.

### **I. THE HIRING OF DICE & ASSOCIATES**

In November of 2007, three new members were elected to the Board. The newly elected members were Joseph Bailey, Donald Kuhn, Jr., and Catherine Mowry. Shortly after the election, then Superintendent, Dr. Patricia Gennari, arrived at her office to find a note instructing her to call the firm that represented the District at that time and to tell them they were no longer the District's Solicitor. Dr. Gennari learned from her secretary that the message was from Board President, Erin Vecchio. Dr. Gennari informed Vecchio that she could not follow this instruction as there had not been a vote by the Board to name a new solicitor.

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<sup>1</sup> While the firm of Dice & Associates still acts as the District's Solicitor, Bruce Dice rather than Craig Alexander now fills that role.

Vecchio appeared before this Grand Jury and alleged that in 2007, while still representing the District, the former Solicitor represented a School Board Member.<sup>2</sup> As a result, she felt a change was in order. Through her father, Vecchio learned of the firm Dice & Associates. Vecchio also knew of Bruce Dice from seeing him at many local political functions. Vecchio also testified that some of the politically influential people in Penn Hills wanted Dice & Associates to be hired as the District's new Solicitor.

At the annual reorganization meeting held on December 4, 2007, the three new Board members were sworn in as members of the Board. The first order of business for the newly formed Board was a vote on the appointment of Dice & Associates as the District's new Solicitor. Prior to the vote, Board member Margie Krogh expressed concern that this appointment had not been discussed in advance. According to the official Board minutes, Vecchio explained that she had provided information to members via voicemail messages. Board member, Barry Patterson also expressed his concern that this appointment had not been discussed with the full Board. Nonetheless, the motion moved to a vote and Board members Joseph Bailey, Carolyn Faggioli, Robert Hudak, Donald Kuhn, Catherine Mowry, Erin Vecchio and John Zacchia all voted in the affirmative. Just as Erin Vecchio had informed Dr. Gennari weeks prior, the Solicitor was replaced and the firm of Dice & Associates had garnered the five votes needed to secure an appointment as the new Solicitor of the District. At no point did Bruce Dice, Craig Alexander or any of the Board members disclose any personal relationship or legal representation on private matters prior to the vote.

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<sup>2</sup> Contrary to Vecchio's claim, other Board members testified that they found the former solicitor to be extremely knowledgeable and professional and that the Board held the firm in the highest regard.

This appointment proved to be lucrative to Dice & Associates. From the time of their appointment as Solicitor in December of 2007 through February of 2017, the District paid the law firm of Bruce E. Dice & Associates a total of \$1,851,058.98.

Payment for each year of service was found to be as follows:

2008	\$ 94,462.15
2009	\$146,973.96
2010	\$137,967.25
2011	\$219,590.18
2012	\$243,003.49
2013	\$256,122.04
2014	\$252,186.40
2015	\$213,242.92
2016	\$228,959.03
Jan-Feb 2017	\$ 58,551.59 <sup>3</sup>

The District paid legal fees to the Solicitor on a monthly basis. The fees were paid for various services including professional legal services and monthly retainers. In May of 2010, the Board voted to hire Dice & Associates to also represent the District in labor issues. Later, Dice & Associates represented the District in both commercial and residential real estate assessment appeals. Each check issued to Dice & Associates was approved by the Board.

Bruce Dice and Craig Alexander, as Solicitors for the District, each signed a Letter of Solvency that was required to secure the bond issues in both 2009 and 2012. These letters were prepared by bond counsel, as is common practice. As Solicitors, signing such letters of behalf of the District generated a fee in addition to the fees listed

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<sup>3</sup> Although Dice & Associates continues to be employed as the District's Solicitor and was paid as such beyond February of 2017, the documentation received through this investigation does not go beyond that date.



in the chart above. In 2009, Dice & Associates was paid \$60,000 and in 2012, the law firm was paid \$30,000 for their signatures.

Attorneys Bruce Dice and Craig Alexander were interviewed by DAI Unit Detectives regarding their respective roles as Solicitors of the District. During that interview, the two attorneys described their duties to the District as attending monthly school board meetings and handling legal affairs. The attorneys both explained to the DAI Unit Detectives that their role did not extend to offering advice on business decisions such as the legality of contracts with the District's architect for the construction of the new schools. They insisted that was the job of the District's bond council. According to testimony, bond counsel was engaged for the specialized purpose of making sure bonds or notes were delivered on a tax exempt basis.

Between 2007 and 2017, not one member of the Board ever abstained from a vote regarding the Solicitor due to a conflict of interest. No member of the Board ever disclosed any personal relationships with Alexander. No member of the Board ever disclosed in a public meeting that Alexander represented members of the Board and/or their family members in personal litigation.

Mowry testified before this Grand Jury that she was not familiar with Craig Alexander and/or Bruce Dice before her vote to appoint them as Solicitors for the District. Mowry claimed that she was not advised on how to vote and did not remember why she voted in favor of the appointment. Kuhn, who testified that Alexander was his best friend and was actively representing him personally at the time of the vote, felt there was no reason to abstain from this vote.

## II. QUESTIONS RAISED ABOUT LEGAL FEES PAID TO DICE & ASSOCIATES

Heather Hoolahan was on the Board from 2001 through 2005, then again from 2011 through 2015. When she was not on the Board, Hoolahan regularly attended public Board meetings as a resident. On at least three separate occasions, Hoolahan, questioned the fees the District was paying to multiple law firms for legal services. During the Board's meetings on June 2 and September 14, 2009, Hoolahan expressed her concern that the District was paying two separate law firms to do legal work. During that time, the District was represented by a separate law firm in a labor dispute with the teacher's union, although Dice & Associates was the Solicitor. On September 14, 2009, Hoolahan also questioned the removal of a resolution to solicit for a new District Solicitor. During the April 6, 2010 meeting of the Board, Hoolahan questioned the amount of money being spent on attorneys as the District was still paying two law firms for legal services.

A review of School Board minutes showed on November 1, 2010, the Board's President, Joseph Bailey, asked the Board to add a resolution to the November 8, 2010 agenda which would replace the firm of Bruce Dice & Associates with the former Solicitor. At the time, Bailey was concerned about some of the bills from Dice & Associates.

On November 8, 2010, the Board declined the resolution to terminate the relationship with Dice & Associates. Board members, Krogh and Bailey were the only Board members who voted in favor of terminating the relationship. Board members Hudak, Kuhn, Mowry, Zacchia, Barbarino, Faggioli, and Linda Gallo all voted against terminating the working relationship with Dice & Associates.

Board member Catherine Mowry not only opposed the resolution, but called on Bailey to step down from his position for even adding the resolution to the agenda. Some of the Board members challenged the lack of notice surrounding the resolution. Hoolahan, who was in attendance as a resident, reminded the Board that no prior notification was ever given for the resolution that resulted in the appointment of Bruce Dice & Associates to the position of Solicitor. At the meeting, the Solicitor did not offer advice as to whether a demonstration of cause was necessary for the removal of a Solicitor. It should be noted that the recording of the November 8, 2010 meeting was never found.

### III. REQUEST FOR A FORENSIC AUDIT OF LEGAL FEES PAID BY THE DISTRICT

Beginning in the fall of 2011, residents of the District and certain members of the Board began to question why the District was paying so many different monthly fees to Dice & Associates. Additionally, the Board received information that Alexander was signing in and billing for his appearance at tax appeal hearings, but not actually attending those hearings. This information raised questions regarding the propriety of the bills Alexander submitted. On January 30, 2012, Bailey made a motion to "obtain forensic accounting for legal fees and the process." Bailey testified that he made the motion because he was concerned about the direction the District was headed financially and he felt that Alexander was over-charging the District when the hourly fees were compared to the total bills. The motion was seconded by Hoolahan. A majority of the Board, including Zacchia, Bailey, Barbarino, Graham-Shealey, and Hoolahan, voted in favor of obtaining a forensic accounting of legal fees. Board members, Hudak, Kuhn,

Faggioli, and Linda Gallo, voted against an accounting review of the legal fees. No members of the Board abstained from voting on this motion.

The Grand Jury had the opportunity to review the video recording of the District's Public Voting Meeting of March 19, 2012. Specifically, this Grand Jury watched the Board vote on the resolution to retain "forensic accountants from ParenteBeard to conduct an investigation related to the services provided by the District Solicitor, Bruce E. Dice & Associates, P.C, at a cost of \$200 per hour not to exceed 40 hours." ParenteBeard was one of three firms considered by the District and the only firm from which they obtained a bid for the forensic accounting. Despite the fact that less than two months earlier a majority of the Board voted in favor of a forensic analysis of legal fees, the vote to retain the forensic accounting firm of ParenteBeard failed. Then Board President, Carl Barbarino, unexpectedly changed his vote from affirmative to negative resulting in a failed motion to retain forensic accountants.

The exchange between the members of the Board that followed this failed resolution could be described as heated. After the failed vote, Alexander advised that the Board could seek a bid from one of the other two accounting firms. Hoolahan reminded the Board that professional services need not be placed on the agenda for bid at all, so this was not an appropriate reason to let the resolution fail. A concern was raised by Kuhn and Faggioli during the meeting that the audit could become too expensive.

After debate among several members of the Board, Board member Robert Hudak made a motion to rescind the prior resolution for the forensic audit. Bailey questioned how a resolution that had already been up for vote and affirmed could just

be rescinded. Alexander, who was to be the subject of the forensic audit at issue, opined that the new motion was appropriate. Again, no one addressed the obvious conflict of the Solicitor advising on a matter that would determine whether his own billing practices would be forensically reviewed. Heather Hoolahan expressed her anger and concern that the Board could just "undo one month what they had done in prior months."

Barbarino testified that he believed the initial January, 2012 vote to authorize the forensic audit was only a motion to solicit bids. Further, although the March, 2012 motion clearly read that the vote was to hire ParenteBeard for a cost not to exceed \$8,000, Barbarino testified that no bids were ever presented to the Board for the forensic accounting. He claimed that he changed his vote because he did not know who was to conduct the audit, how much it would cost or even what a forensic audit included. When confronted with the video recording of the meeting, Barbarino then remembered that the Board was given the names of three firms who could do the accounting, but stated that he did not know what the accounting would cost. Barbarino also testified that he voted "no" on the second vote as he "sensed" there were political motives behind the desire for a forensic audit, but denied being approached by anyone to change his vote. Finally, Barbarino stated he changed his vote because he felt it was the right thing to do and that he could not recall a specific reason for changing his vote. Although he acknowledged that the Board had a duty to ensure the taxpayer dollars were properly spent, Barbarino dismissed the allegations that Alexander was billing for hearings he did not attend as hearsay, stating he never saw any proof to support those allegations or evidence that Alexander was overcharging. He also acknowledged that

the proposed forensic audit, which he voted to rescind, would have delved into any such impropriety.

Robert Hudak's motion to rescind the earlier vote for a forensic audit of legal fees was seconded by Linda Gallo and affirmed by a majority vote from Carl Barbarino, Carolyn Faggioli and Donald Kuhn. John Zacchia, Joseph Bailey and Heather Hoolahan voted in the negative. Denise Graham-Shealey abstained, as she was unsure if the vote was proper.

Although due to the rescission of the forensic audit, the propriety of the bills Alexander submitted to the Board was never reviewed, discussions of the fees paid to Dice & Associates continued. Until August 12, 2013, Dice & Associates was paid an hourly rate. They submitted bills to the Board based on the hours the attorneys worked on behalf of the District. On August 12, 2013, a proposal to pay the firm a monthly flat fee of \$18,500 plus costs was introduced at a public Board meeting and ratified with a unanimous vote by the Board. It was believed at that time that the flat fee would resolve the billing issues and save the District money.

#### IV. UNDISCLOSED PERSONAL LEGAL REPRESENTATION OF BOARD MEMBERS

This Grand Jury heard from several witnesses that Alexander had represented members of the Board and/or their family members at no charge before and during his employment with the District. Attorney Bruce Dice confirmed in an interview with DAI Unit Detectives that there were times that his firm did not charge a fee for services provided to Board members. He further indicated that he believed there was no conflict

as long as Dice & Associates was not representing the members on matters involving the District.

During the course of this investigation, DAI Unit Detectives obtained and served search warrants for, among other things, billing statements, time records, invoices, and record of payment for legal services rendered by attorneys of Dice & Associates regarding their personal representation of members of the Penn Hills School District or their families. The records obtained included documentation indicating that Craig Alexander represented Don Kuhn Jr., Donald Kuhn III, Nikalaus Kuhn, Carolyn Faggioli, Cathy Mowry, and Jennifer Burgess-Johnson in various private legal matters. Alexander also represented Kuhn Auto Body, which was owned by Don Kuhn, Sr., and for which Don Kuhn, Jr. worked prior to his employment with the Commonwealth. The billing information seized from Dice & Associates revealed only one invoice for costs in the amount of \$153 for Don Kuhn, Sr. There were no other invoices found for any member of the Board and/or their family members for any of the services rendered by Attorney Craig Alexander or Dice & Associates.

Donald Kuhn Jr., was served with a subpoena to appear before this Grand Jury on March 23, 2017. When he failed to appear before this Grand Jury, Supervising Grand Jury Judge Jill E. Rangos issued a warrant. Kuhn was located and arrested on the same day. After Kuhn's arrest, Attorney Alexander appeared at the Judge's office to inquire about Kuhn's arrest, despite his ongoing position as Solicitor for the District. A DAI Unit Detective was present in the Judge's chambers when Alexander arrived inquiring about Kuhn's arrest.

Kuhn eventually testified before this Grand Jury on April 20, 2017 and again on May 4, 2017. On April 20, 2017, he informed attorneys for the Commonwealth and the Supervising Judge that he was represented by Attorney Craig Alexander, but that Alexander was busy with another court matter that morning. He then opted to waive his right to counsel and proceed without an attorney.

Kuhn testified that he became involved with the Board with the help of Erin Vecchio, who was the Penn Hills Democratic Committee Chairwoman. While at a political function, Kuhn learned that the Democratic Party had only four candidates for five positions. He then told Vecchio he was considering running. The Penn Hills Democratic Party helped him to obtain the requisite petition signatures and endorsed him through the primaries in May of 2007. Kuhn obtained enough signatures to run on both the Democratic and Republican ballots.

At the time, Kuhn was involved in legal matters surrounding his divorce and a child custody battle. He was represented in those matters by a private attorney. After Kuhn won the primary election in May of 2007, he fired his private attorney who was representing him on his divorce. Attorney Alexander entered his appearance in Kuhn's divorce in June of 2007 and he continued to represent Kuhn in his divorce until 2010. Kuhn testified he paid Alexander \$200 in cash for his years of representation. There was no documentation of this payment in the Dice & Associates record.

Kuhn was sworn into office as a member of the Board on December 4, 2007. His first official act as a new member was to vote to hire Dice & Associates as the new Solicitor for the District. Kuhn testified that he did not inform the public or the Board that Alexander, the associate from Dice & Associates who would become their Solicitor, was



actively representing him in his pending divorce. Nor did Kuhn reveal his close friendship with Alexander. Kuhn did not abstain from the vote or complete an abstention memo.

Alexander again personally provided legal services to Kuhn in 2016. At that time Kuhn filed a civil suit seeking the return of two rings from a woman. Alexander was listed as the attorney of record on the docket. Kuhn testified that Alexander assisted him with filing the paperwork. He further testified that he did not expect Alexander to attend the hearing. Alexander did not charge Kuhn for any legal service provided in this matter.

Kuhn also testified that he and Alexander had met and been friends for years before Alexander became Solicitor. He stated that Alexander provided legal services because they were best friends. Despite the legal representation and the close friendship, Kuhn neither abstained from any vote nor completed an abstention memo in regard to any motions to pay the firm of Dice & Associates for services rendered to the District. During Kuhn's tenure, he voted to pay Dice & Associates over \$1.8 million.

Board member, Carolyn Faggioli, testified before the Grand Jury under a grant of immunity. She testified that Vecchio told her and other members of the Board how they should vote in regard to certain matters that affected the District. Specifically, Vecchio instructed Faggioli and others that the firm of Dice & Associates was to be hired as the new Solicitor for the District.

After Alexander was hired as the new Solicitor, he provided legal services for Faggioli. Specifically, he helped Faggioli with a minor legal matter after her husband

passed away. Alexander also prepared a Will for Faggioli in 2008 without charge. She testified that it was a mutual understanding that it was a favor.

Faggioli, in a statement against her penal interests, testified that in 2008, Alexander provided her with a PNC Bank check for \$1,000. Faggioli stated that Alexander told her she could pay her bills or do whatever she needed to do with that money. According to Faggioli, Alexander told her he was giving her the money because they were "friends." This Grand Jury was unable to obtain a copy of that \$1,000 check because bank records are only retained for a period of seven years.

Faggioli testified that members of the Board knew that they didn't have to pay for Alexander's services. He knew that by doing favors for members of the Board, they would renew his annual contract or vote in his favor. Although this arrangement was never explicitly discussed, Faggioli testified that it was understood.

Faggioli testified that she was instructed by Kuhn that she was to vote against the forensic audit in March of 2012. Faggioli never abstained from voting on monthly payments made to Dice & Associates or on the forensic audit. She never publicly disclosed that Alexander had provided her with monetary gifts or was providing free legal services.

Board member Jennifer Burgess-Johnson was appointed to the Board in 2012. She testified that in 2014 she sought a divorce. Attorney Alexander offered to help before she hired an attorney. He drafted a complaint for divorce for her but had her sign the document *pro se*, or on behalf of herself. She never filed this complaint, but rather returned it to Alexander. She testified that she asked him how much she owed him for his services but that he told her "not to worry about it." She explained to the Grand Jury

that she looked online and saw that the filing fee was \$230. She wrote a check and presented it to Alexander. He told her that he would collect it later, but never did so. Jennifer Burgess-Johnson admitted that she never abstained from the monthly Board vote on payment for legal fees to Dice & Associates. She never disclosed to the rest of the Board or the public that Alexander provided legal services to her for free. As with the other members of the Board, meeting minutes do not indicate any abstentions from this vote nor do they include any abstention memoranda.

Board member Cathy Mowry testified that she spoke with Alexander about performing legal work on her behalf. Specifically, in December of 2012, she approached him about preparing Wills and sought legal advice after her license to carry a concealed firearm was revoked. Mowry claimed that he ultimately did not do any work on her behalf.

Board member Denise Graham-Shealey testified that at one point in 2016, Craig Alexander wrote a letter on her behalf to assist her with a pending legal dispute with a credit card company. He never charged her for his services.

Through multiple interviews, the DAI Unit Detectives learned similar representation may have been provided to Donald Kuhn's mother, Sara Kuhn. Sara Kuhn served as a council member for the Municipality of Penn Hill ("the Municipality") from 2004 until 2016. In January of 2016, she became Mayor and still holds that position as of the date of this Report. To corroborate the information received, the Grand Jury issued a subpoena to the Municipality for documents which revealed that from 2012 through 2017, Sara Kuhn, in her capacity of either Council member or Mayor, voted "yes" to all payments made (61 payments) to the Law Firm of Bruce E. Dice &

Associates, whom the Grand Jury learned also served as Solicitor to the Municipality at the time. The payments from 2012 through 2017 totaled almost \$420,000.

In addition to representing Board members, this Grand Jury learned that Alexander represented members of the Kuhn family. Specifically, Alexander represented Nikolaus Kuhn, Donald Leslie Kuhn, III, and Donald Leslie Kuhn, Sr. in separate legal matters. As described above, the documents obtained from Dice & Associates showed that, despite all of the times the Kuhn family was represented, only Donald Kuhn, Sr. was billed for reimbursement of costs in the amount of \$153. Bank records for Dice & Associates confirmed only one payment from anyone in the Kuhn family. The payment was of that bill in the amount of \$153.

Donald Kuhn, Jr. testified that he was aware of Alexander representing his son Nikolaus regarding a DUI in 2010, however, he stated his mother arranged the legal representation. Further Kuhn denied knowledge of Donald Kuhn, III having been represented by Alexander in a criminal matter, but acknowledged that his family may have kept this from him due to his heart condition.

Sara Kuhn testified in front of the Grand Jury. During her testimony she confirmed her position(s) with the Municipality, confirmed that Alexander of Dice & Associates was Solicitor to the Municipality during the above time period, and confirmed her votes of "yes" for payments to Dice & Associates. Sara Kuhn also confirmed hiring Alexander to represent her family members at a "cash discount" rate of \$250 per matter while he was also the Solicitor to the Municipality. Sara Kuhn informed the Grand Jury that Alexander told her representing her family members in these matters was not a conflict.

## ANALYSIS

As indicated above, this Grand Jury is not recommending criminal charges against Alexander or any Board member based on these potential conflicts. However, this conduct cannot be ignored as the appearance of impropriety is clear. Certain Board members voted time and again on matters that would financially benefit Alexander without revealing that he represented them on personal matters. Alexander continued to provide free legal services and other favors in an apparent effort to maintain the position of Solicitor.

In 2007, Vecchio initiated the effort to replace the District's then Solicitor with Dice & Associates. Ironically, Vecchio cited a conflict of interest as the reason to terminate the former Solicitors, yet the conflict of interest to hire their replacement was ignored by both the Board and Alexander.

Donald Kuhn, Jr., having been sworn in hours before, voted to hire Dice & Associates. Even at this early stage in his tenure, Kuhn had received, and was continuing to receive, the benefit of free legal services from Alexander. Within a month of Kuhn's primary election win, Kuhn fired his divorce attorney and Alexander entered his appearance to represent Kuhn in that matter. Alexander was actively representing Kuhn when Kuhn voted to hire Alexander to represent the District. According to Kuhn, he paid Alexander \$200 for his representation. No documentation of this payment was found in the records obtained from Dice & Associates. Alexander later represented Kuhn's family in separate legal matters for free.

Each of the Board members voted on the payment of fees to Dice & Associates every month throughout their respective tenures on the Board. At no time did any of the members who received free legal services abstain from voting on these matters. Further, Alexander never revealed his representation of Board members to the public, nor advised the Board members to abstain from any vote.

Even as the fees and services provided by Dice & Associates were questioned, those who had obtained free services continued to vote in a manner that protected Dice & Associates and Alexander's position with the District. In 2010, when an effort was made to replace Dice & Associates, the resolution failed by a vote of two to seven. Included in the seven who ultimately defeated the resolution were Kuhn, Faggioli and Mowry, all of whom received free legal services from Alexander. Mowry went as far as to call for the resignation of the Board member who sought to replace Dice & Associates. Again, Alexander made no effort to disclose any conflict.

Additionally, the 2012 vote to rescind the resolution to obtain a forensic audit of the fees paid to Dice & Associates passed by a vote of five to two with one abstention. Two of the votes that saved Alexander from the audit came from Kuhn and Faggioli, both of whom had received legal representation and favors from Alexander. Without their votes, the resolution for a forensic audit would have remained.

Further, the reason cited by the Board members for reversing course was the expense involved in the forensic audit. Given the history of extravagant spending, it is incomprehensible to this Grand Jury that the same members of the Board that shamefully mismanaged \$130 million of public funds over the course of the prior three years, and that paid little attention to the finances of the District, would suddenly be so

concerned over an audit expense capped at \$8,000. Further, there was no exploration of any cheaper option to review bills Alexander was submitting to the District. No other bids for the service were sought, nor did the Board seek a general audit. These facts cause us to doubt that the expense of a forensic audit was the true reason behind rescinding the resolution to conduct the review of Dice & Associates legal fees.

The appearance of impropriety was not completely lost on Board members who testified before us. While each of them denied being improperly influenced in any of their own votes, several Board members opined that other votes were influenced by friendships, family and political relationships. Meanwhile, Dice & Associates was being paid a rate that was on the higher end of the industry standards for a school district Solicitor. Based on the appearance of improprieties, we cannot help but question if this fee would have been lower, but for Alexander doing personal business for Board Members or their families gratis.

## **GRAND JURY RECOMMENDATIONS**

We, the 2017 Allegheny County Investigating Grand Jury make the following recommendations:

1. That a copy of this report be delivered to the Pennsylvania Disciplinary Board so that it may review the conduct of Craig Alexander and Dice & Associates; and
2. That Penn Hills School District adopt a comprehensive conflict of interest policy which clearly defines a conflict of interest and requires members to complete a form annually inquiring into areas which may lead to a conflict of interest. This policy should require any violation to be disclosed at a public School Board meeting.



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY

IN RE:

2017 ALLEGHENY COUNTY  
INVESTIGATING GRAND JURY –  
CASE A

CP-02-MD-0006182-2016



COPY

**CRAIG ALEXANDER'S RESPONSE TO 2017 ALLEGHENY COUNTY  
INVESTIGATING GRAND JURY – CASE A: REPORT NO. 2**

COMES NOW Craig Alexander, an individual identified in Report No. 2, by and through counsel, Christopher M. Capozzi, Esquire, pursuant to 42 Pa.C.S. § 45552 (Investigating Grand Jury Reports) and states as follows his response to Report No. 2:

***A. Introduction***

Craig Alexander (“Alexander”) and the law firm of Dice & Associates provided well-considered advice and counsel to the Penn Hills School District (“District”) and otherwise capably discharged the duties of solicitor to the District for more than 10-years and did so at a reasonable fee. Mr. Alexander did not at any time attempt to improperly influence members of the Penn Hills School District’s Board (“Board”) to secure or keep the post of solicitor; neither he nor the firm overbilled the District for services at any time; and, neither he nor the firm suffered at any time from a conflict of interest when representing the District.

Mr. Alexander could have initiated litigation in an effort to quash or redact the portions of Report No. 2 relating to him on grounds it may reflect adversely on his reputation and because of the inherent lack of due genuinely meaningful process in the context of Grand Jury reporting.

The right of citizens to security in their reputations is not some lesser-order precept. [I]n Pennsylvania it is a fundamental constitutional entitlement. The right is established in the opening passage of the Pennsylvania Constitution's Declaration of Rights -- under the title “Inherent rights of mankind” -- and is couched as an

“indefeasible” guarantee. . . . The Pennsylvania Constitution “places reputational interests on the highest plane, that is, on the same level as those pertaining to life, liberty, and property.”

*In re Fortieth Statewide Investigating Grand Jury*, 190 A.3d 560, 572–73 (Pa. 2018)(citations omitted). Further, the procedural protections included in the Grand Jury Act, the Supervising Judge’s preponderance of the evidence review and the ability to request the Supervising Judge append a response to the report are not necessarily sufficient to vindicate an individual’s reputational and due process rights. *Id.* Mr. Alexander could also have raised as an issue whether Report No. 2 impairs his property rights because it attempts, albeit, unsuccessfully his professional reputation which is the currency in which an attorney trades.

He has instead elected to submit a response because he believes his professional reputation and skills as an attorney are more than sufficient to withstand the implication of impropriety in Report No. 2 and – just as importantly – he now has the opportunity to address the rumor and innuendo relating to this investigation which have been swirling around him and Dice & Associates for more than two years. Finally, although Mr. Alexander does not intend this response to be a point-by-point rebuttal of the Report No. 2, it is essential for anyone reading this report to know he categorically denies any wrongdoing whatsoever.

***B. There was nothing improper about the hiring of Dice & Associates by the District.***

Mr. Alexander<sup>1</sup> and Mr. Dice are knowledgeable, skilled and respected municipal and school law attorneys with many years of experience in the field. In addition to municipal law, Mr. Alexander handles minor criminal matters, domestic relations issues, personal injury cases and wills and estates. Although Mr. Alexander was an associate with the firm he actively sought

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<sup>1</sup> Mr. Alexander is an associate at and employee of law firm of Dice & Associates. Mr. Dice owns the firm.

on a regular basis to develop new clients for the firm and worked diligently to retain the firm's current clients.

Mr. Alexander – on behalf of Dice & Associates and with the approval of Mr. Dice – sought the post of solicitor to the District. There is absolutely nothing wrong or improper about a businessman, even an attorney, attempting to develop a business relationship with a new customer or client. On November 27, 2007, Mr. Alexander, as part of this effort, wrote to the District:

It is our understanding that you may be entertaining a change in the position of Solicitor for the Penn Hills School District. Please accept this letter as a request for the Dice Law firm to be considered for the Solicitor's position.

We would be prepared to accept a monthly retainer of \$1250.00, which would cover the monthly Regular Board Meetings and the annual Reorganizational Meeting. Except for future Bond issues, all out of court matters would be billed at \$90.00 per hour for attorneys and \$50.00 per hour for paralegals. In court and litigation issues would be billed at \$105.00 per hour.

*Exhibit A.* Mr. Alexander's quoted these rates because they were fair and reasonable and he believes they were on par or less than the retainers and hourly rates charged by other law firms providing similar services to school districts and municipalities. Additionally, the hourly rate charged by Bruce E. Dice & Associates ("Dice & Associates") has not increased during the period it has served as solicitor to the Board and at no time did it bill at the \$105 per hour for litigation, but instead invoiced all services were invoiced at \$90 per hour. Further, as an accommodation to the District, Dice & Associates agreed beginning August 2013 to work on flat fee basis, which flat fee as a further accommodation to the District was recently reduced.

There was no *quid-pro-quo* relationship between Mr. Alexander and members of the Board. He did not agree explicitly or implicitly to provide personal legal services to Board members, and he did not bestow gifts on them, to obtain or retain the post of solicitor to the District; and, there was no understanding that Board members would receive free legal services. Further,

to the extent that he and the firm provided legal services to Board members it was in connection with routine matters.<sup>2</sup> In fact, the Grand Jury stated that each of the Board members who testified “denied being improperly influenced in any of their own votes.” *Report No. 2, p. 21.* Nevertheless, Report No. 2 suggests an improper campaign by Mr. Alexander and the firm to secure the solicitor’s post:

At the time [he was running to become a member of the Penn Hills School Board], Kuhn was involved in legal matters surrounding his divorce and a child custody battle. He was represented in those matters by a private attorney. After Kuhn won the primary election in May of 2007, he fired his private attorney who was representing him on his divorce. Attorney Alexander entered his appearance in Kuhn's divorce in June of 2007 and he continued to represent Kuhn in his divorce until 2010.

*See Report No. 2 at p. 16.* Although it is true Mr. Alexander entered his appearance in June 2007 and represented Mr. Kuhn until 2011, the balance of this assertion is either patently incorrect or requires context. Mr. Kuhn’s attorney was not fired in favor of Mr. Alexander; instead, she withdrew her appearance in the case on August 9, 2006; Mr. Alexander did not enter his appearance until 10-months later. *Exhibit B.* Also, Mr. Kuhn’s divorce was not a “battle,” at least not in Mr. Alexander’s experience; it was a routine – albeit unfortunate – marital dissolution and child custody dispute.

Further, during the period Mr. Alexander served the District, there were five different Superintendents. Yet, the Grand Jury did not report that any one of these Superintendents voiced a complaint about the nature or quality of the advice, counsel and other services provided by Mr. Alexander or Dice & Associates.

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<sup>2</sup> In fact, when a Board member asked Mr. Alexander to handle a more complex and time-consuming matter, a personal injury case, the parties agreed that the Board member would pay the same contingent fee the firm charged other clients for such work. Report No. 2 does not mention this fact, which means it was either omitted or it is something that was not discovered in the course of the investigation.

Finally, and perhaps most importantly, the Grand Jury did not report that either Mr. Alexander, Mr. Dice or Dice & Associates were not qualified to serve as solicitors to the District; it did not find that their work was substandard in any way; and, it did not find that their fees were unreasonable. This is because he, Mr. Dice and the firm were eminently qualified to do the work, they performed the work at a high level, and their fees were reasonable given the nature, complexity and volume of the work.

*C. There was nothing improper about the legal fees paid to Dice & Associates.*

The legal fees charged by Dice & Associates were fair and reasonable given the nature, complexity and volume of the legal services provided to the District. *See* Pa. R. Prof. Conduct 1.5 (a lawyer shall not charge a clearly excessive fee, but instead the fee should account for – among other things – the time and labor required, the complexity of the issues, the skill of the attorney and the fee customarily charged for similar legal services). To be clear, the firm did not just appear at Board meetings; it also fielded calls from Board members and the District’s leadership concerning school related issues, it handled property tax issues, staff and student disciplinary matters and other issues brought to it by the District on a regular basis.

It is important to recognize that since Dice & Associates assumed the responsibility handling the duties of solicitor to the District, Allegheny County engaged in a large-scale property tax reassessment and now engages in regular reassessments of commercial and residential property. This resulted in numerous appeals of the assessments. It is also significant that the District has undertaken substantial construction projects. These issues alone required a significant time and personnel commitment on the part of Mr. Alexander and Dice & Associates to the handling the District’s legal issues.

On November 1, 2010, the Board's President, Joseph Bailey, asked the Board to add a resolution to the November 8, 2010, agenda seeking to replace Dice & Associates with the former solicitor. The Grand Jury asserted this resolution was added to the agenda because of concerns raised by Mr. Bailey about invoices from Dice & Associates. This simply is not the case.

On November 6, 2010, Mr. Bailey hand-delivered an undated and unsigned letter to Mr. Alexander raising several issues relating to his post and performance as solicitor. *Exhibit C*. He stated in the letter that its purpose was to outline the reasons he believed a new solicitor should be appointed. *Id.* He identified three issues, none of which related to legal fees or overbilling. *Id.* On November 7, 2010, Mr. Alexander authored a five-page response to Mr. Bailey's letter, which response was distributed to entire board in advance of the November 8, 2010 meeting. *Id.*

Report No. 2 goes on to states

[i]n 2010, when an effort was made to replace Dice & Associates, the resolution failed by a vote of two to seven, included in the seven who ultimately defeated the resolution were Kuhn, Faggioli and Mowry, all of whom received free legal services from [Mr.] Alexander.

*Report No. 2 at p. 20.* This assertion is incorrect and requires context. It is incorrect in that Ms. Mowry requested legal services in 2012, at least two-years after the vote; also, Mr. Alexander never performed the requested work. *Id. at p. 17.* It requires context in that even if Mr. Kuhn and Mr. Faggioli had abstained from voting, the measure to remove Dice & Associates would have been defeated by two votes to five.

Report No. 2 also suggests Messrs. Alexander and Dice had an extraordinarily narrow view of their role as the District solicitor. Report No. 2 states that District Attorney Investigators explained that Messrs. Alexander and Dice

described their duties to the District as attending monthly school board meetings and handling legal affairs. The attorneys both explained to the DAI Unit Detectives that their role did not extend to offering advice on business decisions such as the

legality of contracts with the District's architect for the construction of the new schools.

*Report No. 2 at p. 9.* This statement is a misunderstanding or misconstruction of what Messrs. Dice and Alexander said and it requires context. It is accurate to say the firm attended board meetings and handled legal affairs for the District; these are among the core responsibilities of a solicitor. It is inaccurate to say the firm did not advise concerning the form and legality of contracts, it did; in fact, review, analysis and counsel concerning the form and legality of contracts was one of the Firm's essential responsibilities.

Further, it is not true that Mr. Alexander was signing in and billing for appearing at tax appeal hearings, but not attending those hearings, and Report No. 2 includes no evidence whatsoever that this was in fact occurring. Additionally, Report No. 2 does not even include the when, where and who of who started this rumor; it simply repeats a rumor. Mr. Alexander is left to shadowbox and no one can win a shadowboxing match.

Next, it would not make sense for Mr. Alexander to leave his office, travel to Pittsburgh, pay to park, enter a county office building, sign-in to represent the District at a tax appeal hearing and then not attend the hearing. Additionally, tax appeal hearings are recorded and, therefore, a comparison of sign-in sheets with the recordings of the hearings would confirm whether Mr. Alexander had in fact appeared on behalf of the District.

Finally, the Grand Jury offered a summary of the aggregate billings of Dice & Associates and opined that the relationship was a lucrative one for the firm. It did not, however, offer any context relating to these billings, including a description of the nature, complexity or volume of the work performed or identifying the attorneys at the firm who performed the work other than

Messrs. Alexander and Dice.<sup>3</sup> Most importantly, the Grand Jury – despite the legal and professional resources available to it – found no evidence of overbilling by Dice & Associates.

***D. There was no conflict of interest in Dice & Associates representing individual members of the Penn Hills School Board.***

The Pennsylvania Rules of Professional Conduct for attorneys did not preclude Mr. Alexander or Dice & Associates from representing members of the Board so long as the representation did not involve a dispute between the Board member and the Board. *See* Pa. R. Prof. Conduct 1.7 (Conflict of Interest: Current Clients) and 1.8 (Conflict of Interest: Current Clients, Specific Rules).

It was not a secret that Dice & Associates provided legal services to individual members of the Board. To the extent Mr. Alexander provided legal services to Board members it was to a few Board members on a few occasions in connection with routine matters, it was not on a continuous basis and it was not in connection with complex, nuanced and time-consuming legal issues. Further, Mr. Dice – the owner of the firm and Mr. Alexander’s employer – confirmed to Detectives of the District Attorney’s Office he had knowledge of what was occurring. He explained

there were times when the firm did not charge a fee for services provided to Board members. He further indicated that he believed there was no conflict as long as Dice & Associates was not representing the members on matters involving the District.

*Report No. 2 at pp. 12-13.*

Finally, there are two specific findings in Report No. 2 concerning legal representation which require correction. First, Mr. Alexander never wrote a check to Carolyn Faggioli for \$1,000. Importantly, Ms. Faggioli did not produce a copy of the check or the bank statement or some other

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<sup>3</sup> Report No. 2 also mentions the firm’s aggregate billings to Municipality of Penn Hills. It does not mention the firm’s billings are less than one-half what the prior solicitor was billing.



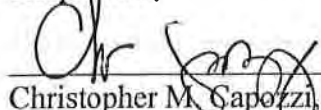
record reflecting its deposit. This alone should have raised questions about the veracity of her claim. More importantly, Mr. Alexander did not own an account at PNC Bank in 2008. Accordingly, it is no surprise the Grand Jury was unable to find a record of this phantom check.

Second, although it is correct that on October 28, 2014, at 3:49:35 pm, Mr. Alexander paid a filing fee on behalf of Jennifer Burgess-Johnson in connection with filing a divorce action, this was not a veiled gift. *See Exhibit D.* On October 28, 2014, at 3:51 pm., Mr. Alexander forwarded the electronic filing confirmation and receipt for \$267.00 to Ms. Burgess-Johnson. *Id.* Accordingly, it appears that Ms. Burgess-Johnson does not recall the correct amount of the filing fee (\$267.00, not \$230.00) or that Mr. Alexander had advised her of amount of the filing fee. *Id.* To be clear, Mr. Alexander forwarded this e-mail for three reasons. First, to confirm the divorce action had been filed as she had requested. Second, to inform the filing fee paid and the amount of the filing fee. Third, as a reminder to her to remit payment to him for the filing fee. To the best of Mr. Alexander's memory, Ms. Burgess-Johnson reimbursed either him or the firm for this filing fee.

#### ***E. Conclusion.***

Mr. Alexander and the Dice & Associates have provided high-quality legal services to the District for more than a decade and done so for fair and reasonable fees. At no time did Mr. Alexander attempt to improperly influence a Board member in any way, and at no time has Mr. Alexander or the firm suffered from a conflict of interest, in particular at no time did it represent a member of the Board in a matter which also involved the District.

Respectfully submitted,



Christopher M. Capozzi, PA ID # 77162

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Pittsburgh, PA 15219

Telephone: 412-471-1648

Facsimile: 412-592-0340

E-Mail: [chris@cmcapozzilaw.com](mailto:chris@cmcapozzilaw.com)

### CERTIFICATE OF SERVICE

I, Christopher M. Capozzi, Esquire, hereby certify that a copy of the foregoing *Response to Report No. 2* was served on this 22nd day of January 2019, via hand delivery upon:

The Honorable Jill E. Rangos, Supervising Judge  
Court of Common Pleas of Allegheny County  
Room 326 Allegheny County Courthouse  
436 Grant Street  
Pittsburgh, PA 15219

Jon Pittman, Assistant District Attorney  
Allegheny County District Attorney's Office  
Room 303 Allegheny County Courthouse  
436 Grant Street  
Pittsburgh, PA 15219



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E-Mail: [chris@cmcapozzilaw.com](mailto:chris@cmcapozzilaw.com)

# EXHIBIT “A”

November 27, 2007

Penn Hills Board of School Directors  
Penn Hill School District  
309 Collins Drive  
Penn Hills, PA 15235

RE: SOLICITORSHIP FOR PENN HILLS SCHOOL DISTRICT

Dear Penn Hills Board of School Directors:

It is our understanding that you may be entertaining a change in the position of Solicitor for the Penn Hills School District. Please accept this letter as a request for the Dice Law firm to be considered for the Solicitor's position.

We would be prepared to accept a monthly retainer of \$1250, which would cover the monthly Regular Board Meetings and the annual Reorganizational Meeting. Except for future Bond issues, all out of court matters would be billed at \$90.00 per hour for attorneys and \$50.00 per hour for paralegals. In court and litigation issues would be billed at \$105.00 per hour.

Thank you in advance for your consideration. If you need additional information, please do not hesitate to contact me at your convenience.

Very truly yours,

Craig H. Alexander, Esquire

CHA:lcp

# EXHIBIT “B”

[Zoom-In](#) [Zoom-Out](#)
[Home](#) > [Search](#) > [Case Search](#)

## Case Details - FD-05-008425

Kuhn Jr. vs Kuhn OC

Filing Date:	07/12/2005	Case Type:	Divorce
Filing Time:	12:24:43	Court Type:	Family Division
Related Cases:		Current Status:	Decree of Divorce (additional)
Consolidated Cases:		Jury Requested:	
Judge:	Wecht David N		
Amount In Dispute:	\$ 0		

## Parties Count : 10

## --Litigants--

Search

LName	FName	MI	Type	Address	Initial Service Completion	Attorney
Kuhn Jr.	Donald		Plaintiff In Divorce	Pittsburgh PA 15235	--	--
Kuhn	Joanne		Defendant In Divorce	Verona PA 15147	--	Susan A Gord
Kuhn	Nikalaus	T	Child		--	--
Kuhn	Donald		Child		--	--

Showing 1 to 4 of 4 rows

## --Attorney--

Search

LName	FName	MI	Type	Address	Phone
Alexander	Craig	H	Plaintiff's Attorney	782 Pine Valley Drive Suite #E Pittsburgh PA 15239	72473330
Gordon	Susan	A	FD Attorney In Support Matters	1125 Grant Building 310 Grant Street Pittsburgh PA 15219	41228119

Showing 1 to 2 of 2 rows

## --Non Litigants--

Search














LName	FName	MI	Type	Address	Phone
Valles	Laura	A	Hearing Officer	429 Forbes Ave. Suite 800 Pittsburgh PA 15219	
Eaton	Kim	D.	Judge	440 Ross Street Room 5032 Pittsburgh PA 15219-2117	
Wecht	David	N	Judge	Court of Common Pleas Pittsburgh PA 15219	
Bubash	Cathleen		Judge	440 Ross Street Pittsburgh PA 15219	

Showing 1 to 4 of 4 rows

## Docket Entries Count : 48

Search

Filing Date	Docket Type	Docket Text	Filing Party	Redacted Document
11/2/2016	Decree of Divorce (additional)	PENDING PAYMENT. pick up 11/02/16	Donald Kuhn Jr.	No Image
6/1/2011	Proposed Order	ORDER OF COURT, 05/31/11: In Final Resolution of all Issues arising from the parties marital settlement agreement, It is hereby Ordered that; 1. Husband shall have 90 days to refinance the marital residence and pay Wife 52% of the appraised value, less mortgage payoff and other closing costs. 2. and further as Specified In Order. (BUBASH, J.)	Joanne Kuhn	Document 47

Filing Date	Docket Type	Docket Text	Filing Party	Redacted Document
4/6/2011	Order of Court	Order dated 3/30/11. Conciliation scheduled for 5/31/11 at 10:30a.m. In room 5036. (Bubash J) See order as specified.	Joanne Kuhn	 Document 46
3/29/2011	Marital Asset and Liability Summary		Donald Kuhn Jr.	Not Viewable from tl Internet
2/15/2011	Order of Court	Order of court dated 02/14/11. IT IS HEREBY ORDERED THAT: The conciliation scheduled before the undersigned It to be continued to a hearing on this matter is scheduled for 03/30/11 at 09:30 am. rm. 5036. (JUDGE BUBASH) SEE ORDER AS SPECIFIED.	Donald Kuhn Jr.	 Document 44
2/1/2011	Praecipe for Appearance	(Susan Heinemann), Esq. for (Joanne Kuhn), In Support Matters.	Joanne Kuhn	Not Viewable from tl Internet
2/1/2011	Praecipe for Appearance	(Craig H. Alexander), Esq. for (Donald Kuhn, Jr.), In All Matters.	Donald Kuhn	Not Viewable from tl Internet
12/20/2010	Order of Court	Dated 12/14/2010 A second conciliation is to be held before the undersigned on the 15th day of February 2011 at 9:30 AM. See order as specified. Bubash, J.	Donald Kuhn Jr.	 Document 41
12/15/2010	Order of Court	Order dated 12/14/10. Parties to split the cost of the appraisal on the marital residence. (Bubash J) see order as specified.	Donald Kuhn Jr.	 Document 40
12/10/2010	Response	Response to motion for special relief.	Joanne Kuhn	Not Viewable from tl Internet
11/29/2010	Order of Court	Order dated 11/23/10. Counsel shall enter into a comprehensive stipulation of facts not in dispute. (Bubash J) See order as specified.	Donald Kuhn Jr.	 Document 38
11/16/2010	Motion & Order	For SPECIAL RELIEF; Order Dated: 11/16/10; Disposition: A Conference before the undersigned is to be held on 12/14/10 at 11:30 am In Room 5036. (BUBASH, J.) See Order as Specified.	Donald Kuhn Jr.	Not Viewable from tl Internet
8/26/2009	Emergency Motion and Order	Emergency Motion for Special Relief-Request for Expedited Conciliation. Order dated June 26, 2009, It is ORDERED that a 2 hour expedited hearing on school choice shall be heard on August 10, 2009 at 1:30pm. (See Order as Specified)(Bubash,J.)	Donald Kuhn Jr.	Not Viewable from tl Internet
8/13/2009	Order of Court	Order dated 8/6/09. Parties shall share legal custody. Father shall have primary physical custody and mother shall have partial custody. (Bubash J) See order as specified.	Donald Kuhn Jr.	 Document 35
7/16/2009	Order of Court	Order dated July 15, 2009, It is ORDERED that a 2 hour hearing on the issue of school choice is scheduled for August 10, 2009 at 1:30pm Room 4012. (See Order as Specified) (Bubash,J.)	Donald Kuhn Jr.	 Document 34
7/14/2009	Certificate of Service	Of Generations scheduling order upon petitioner and respondent by first class mail on 07/13/2009.	Donald Kuhn Jr.	Not Viewable from tl Internet
7/14/2009	Order of Court	Order of court Dated 07/13/2009. Parties have attended the Generations Education and Mediation Orientation Sessions. A further mediation session is now scheduled for 07/27/2009 at 09:00 am. (JUDGE WECHT) SEE ORDER AS SPECIFIED.	Donald Kuhn Jr.	 Document 32
7/6/2009	Order of Court	Dated 7/1/09. Conciliation to be scheduled. (Bubash J) See order as specified.	Donald Kuhn Jr.	 Document 31
6/23/2009	Petition & Order	Petition for Custody Modification-Request for Primary Custody. Order dated March 10, 2009, It is ORDERED that this matter shall proceed directly to Generations on the Custody Modification. (See Order as Specified)(Bubash,J.)	Donald Kuhn Jr.	Not Viewable from tl Internet
5/15/2009	Motion & Order	Motion for Sanctions. Order dated May 15, 2009, It is ORDERED that Joanne Kuhn is to pay the previously ordered sanctions of \$500.00 directly to Atty Craig H. Alexander. (See Order as Specified)(Bubash,J.)	Donald Kuhn Jr.	Not Viewable from tl Internet
2/27/2009	Order of Court	Order of Court dated 2/26/09 - It is ordered mother is in contempt of the 7/14/08 Order of Court by using the child as a messenger to communicate her vacation plans to father. (Judge Wecht) See order as specified.	David Wecht N	 Document 28
2/27/2009	Report	and Recommendation and Proposed Order of Court.	Laura Valles A	Not Viewable from tl Internet
2/27/2009	Certificate of Service	Report and Recommendation has been served upon Craig Alexander, Esquire and Joanne Kuhn by first class mail on 02/26/2009.	Laura Valles A	Not Viewable from tl Internet
1/13/2009	Custody Order	Custody Order of court dated 01/08/09. IT IS HEREBY ORDERED THAT: Father AGREE to Mother's request for another date. A hearing scheduled for 02/17/09 at 10:30 am. rm. 4026. (JUDGE CLARK) SEE ORDER AS SPECIFIED.	Donald Kuhn Jr.	 Document 25
12/9/2008	Order of Court	dated 12/03/08, as Judge Kaplan will be retiring as of 12/31/08. It is ordered: this case is reassigned to Judge Bubash at suffix 008. (see order) (Eaton SJ)	Lawrence Kaplan Wilner	 Document 24
12/2/2008	Order of Court	Order dated December 1, 2008, It is ORDERED that this case is scheduled for January 08, 2009 at 1:00pm Room 4026. (See Order as Specified)(Clark,J.)	Donald Kuhn Jr.	 Document 23
12/2/2008	Motion & Order	Motion for Contempt Hearing Date and Other relief. Order dated December 1, 2008, It is ORDERED that a Contempt Hearing is scheduled for January 8, 2008 Room 4026 at 1:00pm. (See Order as Specified)(Kaplan,J.)	Donald Kuhn Jr.	Not Viewable from tl Internet

Filing Date	Docket Type	Docket Text	Filing Party	Redacted Document
11/19/2008	Emergency Motion and Order	Emergency Motion for Contempt and Other Relief. Order dated November 18, 2008, it is ORDERED that Mother is precluded from denying Father his scheduled custody over next 2 weekends. Mother shall comply with current Order. Any further non-compliance will warrant the imposition of counsel fees. (See Order as Specified)(Kaplan, J.)	Donald Kuhn Jr.	Not Viewable from Internet
10/28/2008	Motion	For Contempt & Order- Custody dated 09/25/08, It is ordered: the current custody order is AMENDED so that the father shall NOT have weekday visits on Wednesday during the school year but instead will have custody over the mother's weekend from 1:30pm on Saturday until 4:00pm on Sunday. (Kaplan J)	Donald Kuhn Jr.	Not Viewable from Internet
10/22/2008	DIVORCE DECREE GRANTED	Order of court dated 10/21/08. Divorce decree granted. The marriage is irretrievably broken. The court retains jurisdiction. (CLARK, J.) Any existing spousal support order shall hereafter be deemed an order for alimony pendente lite if any economic claims remain pending. BOTH Decrees sent to Plaintiff's Atty. (JMR)	Donald Kuhn Jr.	Not Viewable from Internet
10/16/2008	Affidavit of Consent	dated 10/14/08.	Joanne Kuhn	Not Viewable from Internet
10/16/2008	Notice of Intention Waiver	dated 10/14/08.	Joanne Kuhn	Not Viewable from Internet
10/16/2008	Affidavit of Consent	dated 10/14/08	Donald Kuhn Jr.	Not Viewable from Internet
10/16/2008	Notice of Intention Waiver	dated 10/14/08.	Donald Kuhn Jr.	Not Viewable from Internet
10/16/2008	Praecepte to Transmit Record/Decree Paid		Donald Kuhn Jr.	Not Viewable from Internet
9/10/2008	Motion & Order	Dated 05/08/2008 Mother is precluded from relocating Nikalaus pending a conciliation before the undersigned on Tuesday May 13, at 11:00 AM. Room 5077. Kaplan, J.	Donald Kuhn	Not Viewable from Internet
7/18/2008	Motion & Order	Dated 07/14/2008 parties continue to share legal custody of Nikalaus Kauh. Mother shall retain primary physical custody of the minor child and Father to have partial custody. See Order as specified. (Kaplan, J.)	Donald Kuhn	Not Viewable from Internet
6/26/2008	Emergency Motion and Order	Emergency Motion for Entry of Custody Order. Order dated June 26, 2008, It is ORDERED that the Motion is GRANTED to the extent as specified. (See Order as Specified)(Kaplan, J.)	Donald Kuhn Jr.	Not Viewable from Internet
9/4/2007	Order of Court	Order of court dated 08/31/07. IT IS HEREBY ORDERED THAT: A second conciliation before the undersigned on 10/09/07 at 02:00 pm. In Room 5077. (JUDGE KAPLAN) SEE ORDER AS SPECIFIED.	Donald Kuhn Jr.	 Document 10
7/5/2007	Praecepte for Conciliation	for equitable distribution. Order of Court dated 07/05/2007. Parties may engage in any methods of discovery permitted under Pa.R.C.P. 4001(d). Conciliation set for Judge (Kaplan) on 8/13/07 at 2:00pm in Room 5077 Clark, J.	Donald Kuhn Jr.	Not Viewable from Internet
6/11/2007	Praecepte for Appearance	of Bruce E. Dice & Associates, for Donald	Donald Kuhn Jr.	Not Viewable from Internet
8/9/2006	Motion to Withdraw Appearance	of Barbara Ann Mohajery, Esquire	Donald Kuhn Jr.	Not Viewable from Internet
2/24/2006	Inventory and Appraisalment	Inventory & Appraisalment of Deft.	Joanne Kuhn	Not Viewable from Internet
1/13/2006	Praecepte for Rule to File	Praecepte for rule directing compliance with rule No. 1920.33(a) and order of court dated 1/11/06. Defendant not complying with order. (see order)(clark)	Donald Kuhn Jr.	Not Viewable from Internet
1/11/2006	Inventory		Donald Kuhn Jr.	Not Viewable from Internet
7/29/2005	Praecepte for Appearance	by Barbara Ann Mohajery, Esquire in Divorce matters only.	Donald Kuhn Jr.	Not Viewable from Internet
7/21/2005	Acceptance of Service	of the Complaint in Divorce by Michael Steinberg with a count for Custody in the above matter on behalf of defendant, JoAnne Kuhn on 18 July 2005.	Donald Kuhn Jr.	Not Viewable from Internet
7/12/2005	Complaint in Divorce (5 count)	Dated 07/12/05 Both parties shall attend one (1) education seminar on 08/06/05 at (9:00) at Wightman School Community Building. This seminar must be completed within four weeks from the date of this Order. Mandatory Mediation Session is scheduled for 09/15/05 at (1:00). Scanlon, A.J. Equitable distribution. Support. Custody. Injunction from disposition of property pending suit.	Donald Kuhn Jr.	Not Viewable from Internet

Showing 1 to 48 of 48 rows 50 rows per page

Event Schedule Count : 0

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Services Count : 0 Complete Service History

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# EXHIBIT “C”

Bruce Dice & Associates  
C/O Craig Alexander

Good afternoon Craig,

I have intended on sending you this communication previously, but have been extremely busy. As you are aware, I have recently accepted an appointment from the President Elect of the Pennsylvania School Board's Association.

I was very concerned with our last School Board Meeting. After hearing from [REDACTED]

[REDACTED] They were questioning my reasoning for requesting a resolution to release your firm from Penn Hills.

As you can recall, I had seen you several times at many Democrat functions but did not know you. During my running for School Board, I was invited to [REDACTED] house and that is where I officially met you. [REDACTED] and other sitting board members were also there. During that time, it was communicated to me by [REDACTED] what a great firm you represented and that they had planned to announce a resolution to hire your firm as Penn Hills School Board's Solicitor.

At the time of that meeting, I believed that you had several School Districts that you provided services to and had the experience needed for the district.

Here are my concerns:

The handling of the Erin Jackson issue: I believe that you and Dr. Carroll from your direction made decisions based on what you believed you could win and what she and her lawyer would agree to. I would much rather go with the right thing so individuals know we are serious about Education.

The handling of the PLA: Margie Krogh had asked at a board meeting if another company could come and speak to the board. Instead of answering the question, yes or no (Legally) you decided to add all of your personal thoughts and information related to the already voted PLA. A simple no would have sufficed. Also with the PLA, it is my understanding that the verbiage was provided to you by the Labor and Union. I would have thought as a representative of the School District the verbiage would have been provided by you for review and not the other way around.

During executive sessions, you often times chime in as a board member and not the solicitor. You often times have opinions that are not necessarily legal. I have watched you through many meetings providing input when the discussion is for board members. I think that you have become comfortable with the board and no longer see yourself as a Legal Leader for the team. Contrary to the belief of some of the public, your role is to Lead us Legally through challenges and decisions that pertain to potential litigation etc. As I speak about your becoming more a friend, I have never worked with any organization where the attorney / solicitor frequently, actually not at all, have taken "Select" Board Members out after every Board Meeting for alcoholic beverages. It is my understanding that the alcohol is provided in excess knowing the individuals will have to drive home. I don't think this is a good idea for a solicitor to put its Board Members at risk.

Also, I do not want to forget the issues with donating our building to the Firemen. We were all obviously okay with that, but then you thought it was a good idea to donate the building and continue paying utilities, insurance and up keep. When I confronted you about that, you told me you were writing the resolution because the board wants to do that. Seriously, it is not the right thing to do. No school district does this and a School System can donate public dollars to an entity that offers school related services. You should have known that and advised us differently. After the righting of the resolution, it was then determined the Firemen had not even requested this. It was the idea of Sara Kuhn and you were running with it. I found that to be disturbing.

The solicitor again is there to advise the School Board to ensure they are within the Sunshine and advise them legally. All discussion within the frame work should be held with the board. They should be allowed to have the conversation and communication without interference or persuasion from the solicitor.

I received a text from [REDACTED] informing me that the resolution stated as a recommendation from the Board. I informed her that I will be very clear with the public that it is my recommendation alone. I certainly would not expect the your "Select" group to agree with my recommendation.

I would however, like to understand what can legally be communicated with the public. I certainly want to satisfy [REDACTED] on the reason why.

Thank you and I look forward to your response to my concerns,

Professionally,

Joseph E. Bailey Sr.  
Board President

# EXHIBIT “D”

# BRUCE E. DICE & ASSOCIATES, PC.

ATTORNEYS AT LAW

787 PINE VALLEY DRIVE, SUITE E  
PITTSBURGH, PENNSYLVANIA 15239-2842

TEL: 724-733-3080

FAX: 724-327-9659

November 7, 2010

Joseph E. Bailey, Sr., President  
Penn Hills Board of School Directors  
260 Aster Street  
Penn Hills, PA 15235

Joe:

Yesterday you provided me with concerns that apparently have been festering since the Erin Jackson matter. Please let me address them one by one.

1. The Erin Jackson matter.

Basically, as I understand your concern is that at my direction, Dr. Carroll made a recommendation to suspend an employee in excess of thirty working days instead of "doing the right thing" because you claim that this is the best deal I could get from the lawyer on the other side.

Joe, I just don't know how to say this any other way, but you are just simply wrong on this issue. Here is what I recall. When the Erin Jackson matter broke, I met with Dr. Carroll in an effort to get a feel for what type of punishment Dr. Carroll desired to impose. It was his initial recommendation that Ms. Jackson be suspended for three to five days. Contrary to your concern, I was not directing Dr. Carroll's recommendation. After much discussion, Dr. Carroll decided he was going to increase his recommendation to a ten day suspension without pay. You and I had a number of discussions on this matter and it was your opinion that while you would like to see a termination, you wanted any suspension to be felt in the pocket book to send a message that this type of conduct would not be tolerated. I made you aware that in my opinion, a termination would not be upheld. My opinion was based on my experience on countless labor arbitration and court cases that I participated in directly for both uniform and non-uniform public employees over a nineteen year career.

During the Loudermill hearing, when the parties were discussing the matter, Ms. Jackson's lawyer was pushing for much less severe penalty and Dr. Carroll and I caucused and I suggested we would advise them that Dr. Carroll would refer the matter to the Board for termination unless the employee accepted a suspension without pay until the end of the year. I was able to convince the lawyer to accept this punishment.

Joe, it is my opinion, and perhaps I am wrong, that getting such a penal suspension without pay in this matter WAS doing the right thing for the District and the Penn Hills community as a whole. I must give Carolyn Faggioli a lot of credit on this issue as well,

because, like you, she would have liked to see a termination. However, she did her own research on the matter and came to her own conclusion that a termination was not warranted within the facts of the Erin Jackson case. I'm not sure she wavered on the fact that she wanted to see a termination; but, at least she was able to understand the decision and accept that it was legally the right thing to do under the circumstances.

Joe, I would suggest that you reach out to Dr. Vak and ask his opinion as to what the right thing to do would have been in this instance. I did, and he quickly did the math and made a determination that Erin Jackson was penalized approximately \$10,000.00 for her conduct. I would also suggest you ask Dr. Vak, based on his lifetime of experience with various school districts, what he would have done under that or similar circumstance. I believe the answer will be incredibly surprising to you.

Regardless, it is a terrible shame that this Erin Jackson matter has driven a wedge into our relationship.

2. PLA.

- a. Margie asking a question that should have been answered by a simple yes or no.

I will go back and review the video of this exchange if it is on the teacher's web site. However, without having done so yet, I must respectfully disagree. I have been representing local Boards and agencies for almost twenty years now and never have I been questioned regarding offering an opinion instead of a simple yes or no answer. In fact, it is the solicitor's role to offer an opinion on matters.

- b. PLA verbiage being supplied by Union.

Joe, I don't know where your understanding comes from, but it simply isn't correct. The PLA process was a back and forth negotiation that led to the final product. There was some language that was recommended to be retained or added by the Trades Council and there was other language offered by the District. This is how contracts are negotiated. In this case, Rick and I were having a discussion regarding bringing a PLA before the Board on the High School, because it appeared to both of us that a majority of the Board members were in favor of this and because time was of the essence. I explained that I already had the agreement in draft for use with the elementary school and it could be tailored for the entire project. I initially used the Shaler template. When I sent it to Rick, he and Turner requested to use the older Baldwin template. Consequently, I then re-formatted the Baldwin agreement to the School District's project needs.

I forwarded the final draft to Counsel for the Trades Union to see whether it was acceptable and was informed that the Trades Union desired to use the Shaler model, because it had been challenged through the court system and because there were updated provisions that the Baldwin agreement did not contain. This is a position that I was in agreement with and stated so from the outset. The Union also did not accept the District's attempt at putting a percentage of Union employment into the agreement instead of the one for three requirement

in the Shaler agreement which had been upheld in the courts. With that, I worked through the weekend to get an updated draft consistent with the Shaler template. I advised Rick first thing Monday morning, the day of our meeting on the matter and forwarded him the updated draft agreement. I called him a little later and he informed me that he did not get the updated agreement and that he was not in the office. I then forwarded it to Dominique in order that the most current draft would be considered by the Board. During the Board meeting, there were certain provisions brought forth that the Board members wanted to make sure were in the final version before it was signed. For instance, Carolyn wanted the apprenticeship program that was in the Baldwin agreement in the final version. We negotiated that back in. We also made sure there was a clearance provision requiring that contractors have necessary clearances.

Joe, this all occurred very quickly when the Board decided they wanted to consider a PLA on the High School project. With the efforts of Rick, Tuners, Al and myself, we were able to get an agreement together for the Board's consideration in a prompt manner. The negotiation process was no different than any other negotiation process; a template is used to start with and there is a negotiation process back and forth until a final agreement is reached.

I would be happy to sit with you and show you the countless email communications that occurred throughout the negotiation process.

### 3. Executive Sessions

Again, this is a concern that leaves me at a loss of words. In almost 20 years of sitting through executive session meetings month after month after month for various and multiple local agencies and Boards, never has this issue been raised to me, and for three years shy of a month in the Penn Hills School District, it has never been raised to me by administration nor any of the nine Board members either on the prior Board or the current Board. Please let me know whether you have received even one independent complaint of this nature directed to you as President of the Board. If it has been, I am unaware of it.

### 4. Select Group of Board Members.

Joe, I, and the firm I work for, have not reached the level of success that we have reached, by creating "select groups" of Board members. I am an inclusionist, not an exclusionist. There is absolutely no benefit to me to exclude one Board member over another. I involve myself in the Community where I am fortunate enough to serve as a Solicitor. If I go out after a meeting, everyone is invited to come, not select members of the Board. Some Board members may join me more than others but ALL are included. I know that you have very little desire to go out after a meeting but rather have a desire to get home to your family. You very rarely have joined me, though you have on rare occasions. I was happy when you did, but never upset when you didn't. Dr. Carroll has come out on occasion and Rick has on occasion. Margie has come out on rare occasions and Barry Patterson also came out on a few occasions. John Zacchia has also come on occasion, but only very rarely. Similar to you, I believe that John wishes to get home after a lengthy meeting. As I see it, it is not a select group that may choose to join me but rather a select group that does not. I don't see this as a slight to me in any way. I simply see it as part of the team that just wants to get home.



I do agree with you that select groups seem to be forming among the Board for whatever reason. However, I have nothing to do with this, nor any desire to be involved with it. It is my desire to have nine friendly Board members; not a fraction thereof. Certainly I would like Joe Bailey as a supporter. I had that for about 2 1/2 years. Recently though, perhaps as a result of the Erin Jackson matter, I can't get you to answer my calls nor return them nor return my email communications when I attempt to share information with you. I do know that you are very busy in your work and home life and I respect that tremendously. However, it appears you have time to respond immediately to those you have a desire to respond to.

5. Resolution for firemen.

The only thing that I agree with you on this issue is that there is no provision in the school code which permits the school district to make donations of any sort. The resolution as drafted makes no reference to donations. It makes reference to consideration for the transfer. The code is clear that the school district has the ability to convey a property to a fire association and to set the consideration therefor. I completely disagree that this resolution came from Sara Kuhn and that I was simply "running with it". My understanding is that Rick wrote the Board on three separate occasions and got no response. He contacted me and asked me to write a resolution, which would include payment of utilities if possible. With that conversation, I could only have concluded that the request came from the Board of School Directors with due consideration and dialogue from the fire association. In fact, Rick very poignantly described this process in an email to the Board on the subject.

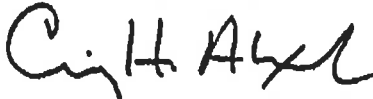
One of my issues with your concerns is that on one hand you want only a legal opinion and not a personal opinion but in this case, you suggest that I know that this is "not right". My charge is to make a determination as to whether there was a legal basis for including certain utility payments in the conveyance of the building, because, as I understood it, this was the Board's desire. I did that and it is my understanding that there will actually be a cost savings on the matter. Often time, things are "not right" which are perfectly legal. With regard to the instant matter, if you want my personal view point, if the District desires to include certain utility payments to the firemen, the District should do this in a lease format. Utility payments are often included in leases. I outlined the possibility of a lease arrangement in an opinion on this previously.

Joe, I do agree with you that I am the legal advisor to the Board. Perhaps even the legal "leader" as you suggest. Though even as the legal leader, I take my direction from the Superintendent and the Board of nine School Directors. I need to be able to reach and converse with each of the nine when appropriate. I think that being able to reach the Board President is especially important. Right now, you are choosing not to allow that to happen. I hope that this letter gives you adequate response to your concerns. As I indicated previously, I would like to have a positive relationship with you, Joe, as I would with all nine Board members.

I would welcome the opportunity to discuss every one of these issues with you directly. With regard to what you can say in public, Dr. Vak has already provided his opinion on behalf

of the School District on the matter. I can tell you that legally, I am a consultant and not an employee. Therefore, the exception to the sunshine law permitting executive session discussion on the topic is not applicable. In other words, it is legal for you to discuss this matter in public.

Very truly yours,  
BRUCE E. DICE & ASSOCIATES, P.C.

A handwritten signature in black ink, appearing to read "Craig H. Alexander". The signature is fluid and cursive, with the first name "Craig" being more prominent.

Craig H. Alexander, Esquire  
Solicitor, Penn Hills School District

CHA/alo  
Enclosures

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY

IN RE:

2017 ALLEGHENY COUNTY  
INVESTIGATING GRAND JURY –  
CASE A



COPY

CP-02-MD-0006182-2016

**SEALED ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2019, it is hereby **ORDERED** that:

1. The *Response to Grand Jury Report No. 2* filed by Christopher M. Capozzi, Esquire, on behalf of his client is accepted and shall be appended to Report No. 2; and,
2. The District Attorney if it elects to distribute copies of Report No. 2 or post it on the Internet shall also distribute a copy of Mr. Alexander's Response to Report No. 2 and post it on the Internet along with Report No. 2

**BY THE COURT:**

\_\_\_\_\_  
**Hon. Jill E. Rangos**  
**Supervising Judge**

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY

IN RE:

2017 ALLEGHENY COUNTY  
INVESTIGATING GRAND JURY –  
CASE A

CP-02-MD-0006182-2016

RESPONSE TO REPORT NO. 2 AND  
MOTION TO ACCEPT RESPONSE TO REPORT NO. 2

COMES NOW the Respondent, Craig Alexander, by and through counsel, Christopher M. Capozzi, Esquire, and submits his response to Report No. 2 of the 2017 Allegheny County Investigating Grand Jury – Case A and moves that the Court accept his response to Report No. 2 and states as follows:

1. The Respondent's response to Report No. 2 is attached hereto and is incorporated by this reference.

2. This Court should accept Respondent's Response to Report No. 2 for the following reasons:

- (a) the Respondent has a Pennsylvania Constitutional Right to remedy by due course of law and other than initiating litigation to quash the report or redact the part of the report relating to him the only available process in this circumstance is submission of a response to Report No. 2 and he has elected to participate in this process by filing a response;
- (b) the Respondent's Response to Report No. 2 addresses the allegations made against him, offers an alternative to the findings of fact and conclusions made by the Grand Jury and is cogent and concise.
- (c) absent acceptance of the Respondent's response to Report No. 2 he will be denied any meaningful due process and he will be denied a fundamental element of due process – the opportunity to present objections. *Herder Spring Hunting Club v. Keller*, 143 A.3d 358, 376 (Pa. 2016);

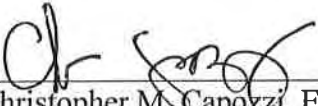
- (d) any action other than acceptance of the Respondent's response to Report No. 2 would in these circumstances be an abuse of discretion.

3. It is essential that Mr. Alexander's Response to Report No. 2 be distributed with the Report No. 2 to ensure that anyone reviewing Report No. 2 also receives his response thereto so that they might consider it and there is no means for Mr. Alexander to know to whom the report will be distributed for who might elect to view on the Internet and, thus, deliver a copy of response to them.

4. In the event that the Court declines to accept Mr. Alexander's response to Report No. 2 he requests the Court notify him sufficiently in advance of the release of Report No. 2 to file an appeal of that decision.

WHEREFORE, for the foregoing reasons this Court should accept the Respondent's *Response to Report No. 2.*

Respectfully submitted,

  
\_\_\_\_\_  
Christopher M. Capozzi, Esquire (Attorney No. 77162)  
*Attorney for Craig Alexander*  
100 Ross Street, Suite 340  
Pittsburgh, PA 15219  
Tel: 412-471-1648  
Fax: 412-592-0340  
E-Mail: [chris@cmcazzilaw.com](mailto:chris@cmcazzilaw.com)

**CERTIFICATE OF SERVICE**

I, Christopher M. Capozzi, Esquire, hereby certify that a copy of the foregoing *Response to Report No. 2* was served on this 22nd day of January 2019, via hand delivery upon:

The Honorable Jill E. Rangos, Supervising Judge  
Court of Common Pleas of Allegheny County  
Room 326 Allegheny County Courthouse  
436 Grant Street  
Pittsburgh, PA 15219

Jon Pittman, Assistant District Attorney  
Allegheny County District Attorney's Office  
Room 303 Allegheny County Courthouse  
436 Grant Street  
Pittsburgh, PA 15219



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Christopher M. Capozzi, Esquire (Attorney No. 77162)  
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100 Ross Street, Suite 340  
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E-Mail: [chris@cmcapozzilaw.com](mailto:chris@cmcapozzilaw.com)

# Penn Hills School Board

Our Vision  
The pride of the Penn Hills community for its schools

Our Mission  
To provide a safe, secure, and supportive learning environment for all students

Our Beliefs  
We believe in the power of education to transform lives



Penn Hills School District

I, Erin Vecchio, have read Grand Jury reports One and Two in regards to the practices of the Penn Hills School District concerning the construction of both the High School and the Elementary School and this is my response.

I believe that the term "the board" is objectionable as Board membership continuously changes. The report, when stating "the Board" makes no accurate catalogue of Board Membership at any time and further leaves the impression that it remained unchanged during this entire period. I was no longer on the board after November 2009, therefore I was not on the Penn Hills School Board at any time during the construction of the High school or the Elementary School and had no say in any changes to size, materials or completion date, all of which took place between 2010 and the projects completion in 2014.

I also want to say that referencing the title "superintendent" neglects to point out that there were several individuals holding that position during this period. It would have been helpful for all involved if D.A. Zappalas office would have returned the minutes from the school board meetings and all other relevant documents.

**Report One:**



Page 1 States: In May of 2016, the Pennsylvania Auditor General, Eugene A. Despasquale, issued the results of a performance audit ("the Audit") of the Penn Hills School District ("district") evaluating the application of best practices in regard to areas of finance, governance, safety and contracts.

RESPONSE: Mr. Depasquale's performance audit also addressed THEFT. The Penn Hills Police were contacted to file criminal charges against district employees who were caught, on camera, stealing fuel and using district credit cards to purchase over \$400,000 worth of tools and materials for there own personal use. There was also \$22,000 from ticket and food receipts from a sporting event that was stolen. These investigations were taken from the Penn Hills Police by D.A, Zappalas office. D.A. Zappalas investigators told police and the school district that they were going to handle them.

Page 3. States: Ultimately the Grand Jury is unable to recommend the filing of criminal charges by way of a presentment in this case

RESPONSE: Was any of this evidence ever shown to the Grand Jury? Rick Liberto is at the center of all of this. School board members, superintendents, architects, banks and bonding agencies all relied on

figures given to them by Rick Liberto. Business Manager Rick Liberto was given immunity. Why and for What? When this investigation started Rick Liberto told me that if prosecutors came after him he has enough information to "bring them all down, including [REDACTED] [REDACTED]". After Liberto was fired he actually has KDKA report Ralph Ionadi and Pittsburgh Tribune Review Reporter Mike Divittorio over to his house and showed them 15 boxes of files he had taken from the school district and repeated to them what he said to me, that if he was prosecuted he would bring them all down, including [REDACTED]. It looks like that strategy worked. About 10 years ago Rick Liberto told me and Joe Bailey that he had received immunity then from the F.B.I. He said he wore a wire for the F.B.I. to a meeting at [REDACTED] office where he, [REDACTED] and [REDACTED] [REDACTED] were discussing the contracts for the new schools.

Page 4 States: The board, various district employees in leadership positions and third-party vendors .... engaged in actions and participated in decision making that showed, at best, an utter lack of understanding...

RESPONSE: Votes were taken based on information given to the Board by Rick liberto, Jan Brimmeier/AI and the PA department of Education.

Early in 2009 Jan Brimmeier/ AI Architects told the school board at a public meeting that the district would save approximately 8 to 10 million

dollars with the consolidation from building the new schools and eliminating the maintenance on the old buildings. Even as those projected saving figures declined by August 2009, the school board was shown, by business manager Rick Liberto, and verified by the PA Dept. of Education, a projected savings that was enough to pay the loans based on the original designs and completion date.

Page 5 states: The 2009 board, consisting of Erin Vecchio (President of the board)....

RESPONSE: I was not the President of the board, Joe Bailey, who's name is not even listed was the President.

Page 5 States: This board compounded the effects of this decision by recklessly spending...

RESPONSE: Again, I was not on the School board as of November of 2009. All construction changes occurred from 2010 and later.

Page 5 States: The hiring of Jan Brimmeier, the principal of AI architects, has the appearance of a politically motivated decision. Board President Erin Vecchio had previously worked for her brother, the Pennsylvania Turnpike Commissioner, Joe Brimmieier. As described below, Joe

Brimmeier also acted as a reference and was otherwise involved in Vecchio getting a job within the Pennsylvania Department of Revenue.

RESPONSE: First I was not the Board President at this time, Joe Bailey was President, I was hired by then Turnpike Commissioner William Lincoln in 2002, 7 years before the vote to hire Jan Brimmeier/ AI Architects, and one year before Joe Brimmeier was hired as the new Turnpike Commissioner. I was making approximately \$45,000 annually as a toll collector. In 2004 I was injured on the job and placed on workmen's compensation. In 2006 I tried to go back to work, but the Turnpike would no take me back because I still had a brace on my leg from the prior injury at work. I discussed this with Joe Brimmeier and he first suggested that I apply with the PA Lottery, then the PA Department of Revenue, given my condition I required a desk job.

Page 6 States: Jan Brimmeier/AI Architects was paid \$11 million to build the schools.

RESPONSE: Part of the \$11 Million dollars was a Multi-Million dollar BONUS even though they were over budget and finished late. Who on that board voted for the bonus and who proposed it in the first place?

Page 13 States: ...Jan Brimmeier had many strong political connections in Penn Hills. Jan's sister was the solicitor for the municipality of Penn Hills.

RESPONSE: As I testified, the Brimmeier family's strong political connections were with State Rep. Tony Deluca and his son, then mayor Anthony Deluca.

Page 13 States: The School Board President Erin Vecchio

RESPONSE: Once again, I was not the school board president.

Page 13 states: Vecchio then applied for a managerial position in the Department of Revenue, listing Joe Brimmeier as a reference.. In fact she was the only employee interviewed for the position... She was then offered the same job at four steps, pay grades, above the minimum.

RESPONSE: I believe that I was not the only candidate interviewed for the job. It is my understanding that Rick Kunkle was also interviewed for the managerial position that I was hired for at the Department of Revenue. Also, I was not hired by Joe Brimmeier for the position. I was hired by Tom Wolf.

I was not hired four steps above the minimum, I was hired as a manager at \$47,00 a year, which at the time made me the lowest paid office manager in the Department of Revenue. The manager of the adjoining Department of Revenue office, Jim Ellenbogen, had a salary of \$85,000 a year.

Page 13 and 14 States: Vecchio admitted to the Grand Jury that Joe Brimmeier called her regarding the open architectural position for the construction projects. According to Vecchio, Joe Brimmeier stated that State jobs would be available for the Penn Hills if Jan Brimmeier was awarded the position. However, Vecchio maintained that she merely advised Joe Brimmeier regarding the interview process for the architectural position.

RESPONSE: Joe Brimmeier did call me about the construction work the school district was planning and asked if I could help get his sister, Jan Brimmeier of Architectural Innovations/ AI hired to do the project. I told him I could get her an interview. When Joe said he could make state jobs available for Penn Hills I told him to call State Rep. Tony Deluca.

After Interviewing several architectural firm, Jan Brimmeier/ AI was hired by a unanimous vote because they put on the best presentation.

Regarding the "State jobs" Jan Brimmeier was hired in 2008, the Rep Deluca's daughter, [REDACTED] received a job at the PA Turnpike. Rep. Deluca's son-in-law, [REDACTED], received a job at the PA Turnpike. Rep. Deluca's daughter [REDACTED] received a job at the PA Lottery. [REDACTED] the then Penn Hills Democratic Party Chairman and whose wife works as Rep. Deluca's secretary, was given a managers position at the PA Turnpike with a \$65,000 a year salary. Additionally, Rep Deluca's cousin received the contract with the school district to supply the furniture for the new school buildings.

I find it shocking the Rep. Deluca's grandson, [REDACTED] was hired at DA Zappala's office as this investigation is going on as well.

My job though was eliminated at the Department of Revenue in August 2009 because of "financial" reasons. I believe it was because I had been subpoenaed three times and was testifying at a Grand Jury convened by then PA Attorney General Tom Corbett on political corruption. [REDACTED]

[REDACTED] were targets in that investigation. Joe Brimmeier was ultimately convicted of abusing his position as the PA Turnpike Commissioner.

Page 14 State: Board member Carolyn Faggioli testified before this Grand Jury that she and several other board members received phone calls from

Vecchio and Kuhn telling them too vote for Al... Further, Rick Liberto , District Manger, testified that he heard Vecchio say at a board meeting that she new some people received phone calls and they had better listen. However other board members who testified denied these calls were made.

Response: All current and former board members who testified denied I called them. As I recall, I testified that Rick Liberto called me about the vote and I assumed he or Rep. Deluca would have called some of the other board members. Board Member Cathy Mowry works in Rep. Deluca's office, so there would be no need to call her. Seven years later, on May 3, 2016, former board member Carolyn Faggioli stood up at a public meeting and stated that while she was a board member she had received calls from Rep. Deluca, and Deluca would call other board members and tell them how to vote. Carolyn has said several times that she was afraid of Rep. Deluca because he has threatened her job. Carolyn told the FBI this at a previous interview. Deluca has told her and others, "You see what I did to Erin (Vecchio)." Carolyn is a widow and a single mother with two sons, she has a non-union job with Allegheny County.

I have stated before that Rep. Deluca has threatened me over school board votes. In 2009 I asked FBI investigator [REDACTED] why hasn't



Deluca ever been arrested and he told me Deluca has people in high places looking out for him.

Page 19 States: On April 20, 2009, the district awarded a contract to have AI demolish the administration building and build a new high school...

RESPONSE: AI was awarded the contract April 20, 2010, the district didn't have their bond money until March 30, 2010. 7 months had passed since the original vote. Should there have been another vote and was there?

Page 24 States: When Bonds were issued in 2009...

RESPONSE: The bonds may have been ready earlier but they were not issued to the district until March 30, 2010, after the legally required Act 34 public meeting.

Page 38 States: ... which ultimately grew to an \$18 million deficit...2015.

RESPONSE: In 2015 the district turned down a \$9 million offer for Penn Hebron elementary school and its surrounding acreage, instead it sold it to the municipality for \$250,000.

Page 51 States: The decisions made by the district and the board beginning with the decision to build two new school buildings...amounted to reckless gambling with taxpayers funds...

RESPONSE: As of August 2009 vote to go ahead with the original construction project that was to be completed by August 2012, the plan was reviewed by the business manager, the department of education, the architects and the bonding company, who, by law would not be allowed to make the loan if it did not believe the district could afford it.

Page 58 States: The school board president previously worked for Jan Brimmeier's brother...This appearance of impropriety was amplified by the continual expansion of the project and over spending...

RESPONSE: Since I am the only board member, past or present, that I'm aware of that ever worked for the Turnpike, I assume this is referencing me. Again, in 2009 I was not the board president and after November 2009

I was not on the board. The continual expansion and over-spending did not start until 2010. If I had Access to the board minutes from the meetings I would be able to show that I protested, from the AUDIENCE, the construction over spending.

Page 75 States: That a copy of this report to be delivers to State Representative Anthony Deluca...

RESPONSE: [REDACTED] The fact that his name is not even mentioned until the last sentence of this report is inexcusable.

With all the inaccuracies in this report I have to wonder, did Rep. Deluca write this himself ?

RESPONSE: Regarding the hiring of Bruce Dice & Associates. I never wrote a not and gave it to Donna Liberto (Business Manager Rick Liberto's mother and Dr. Gennari's Secretary) demanding the Bruce Dice & Associates be hired. I recommend in executive session to hire Bruce Dice & Associates and requested the other board members submit names that they would like to consider. Seven Broad members instructed Superintendent Gennari put up a resolution to fire Maiello Brungo and Maiello, whom she had a longstanding relationship with. Dr. Gennari refused to take action for several weeks, until Rep. Tony Deluca personally visited her in her office about it.

It should be noted that [REDACTED]  
[REDACTED]  
[REDACTED]

Page 5 States: Vecchio also knew of Bruce Dice from seeing him at many local political functions. Vecchio also testified that some politically influential people in Penn Hills wanted Dice & Associates to be hired as the new solicitor.

RESPONSE: I specifically said to the grand jury that Rep. Deluca wanted them hired also.

Page 6 States: This appointment proved lucrative to Dice & Associates.

RESPONSE: I was not on the board from November 2009 until December 2015. In January 2016 I asked Dice & Associates to lower their price, and they did.

Bruce Dice & Associates are the Municipal Solicitors for Penn Hills, Plum, Verona and Wilkins Penn Joint Water Authority.

Page 10 States: ... Board vote on the resolution to retain "forensic accountants... Despite the fact that less than two months earlier a majority of the board voted in favor of a forensic analysis... Then board president, Carl Barbarino, unexpectedly changed his vote from affirmative to negative resulting in a failed motion to retain forensic accountants.

RESPONSE: I testified that Carl Barbarino told me and others that Tony Deluca and Craig Alexander told him to change his vote. Barbarino was not endorsed by the Penn Hills Democratic Party and was not reelected.

Page 13 States: ....indicating that Craig Alexander represented Don Kuhn Jr., Donald Kuhn 111, Nikalais Kuhn, Carolyn Faggioli, Cathy Mowry, and

Jennifer Burgess-Johnson in private legal matters. Alexander also represented Kuhn Auto Body...owned by Don Kuhn Sr.

RESPONSE: At the time when Alexander of Dice & Associates first got hired by the board, Don Kuhn Jr. was the only board member Alexander had represented. Since then he has also represented, for free, then Business Manager Rick Liberto, who was suing a tenant, and Rep.

Deluca's Brother in-law [REDACTED]  
[REDACTED]

Page 19 States: Ironically, Vecchio cited a conflict of interest as the reason to terminate the former Solicitors...

RESPONSE: The former Solicitor's Mailleo, Brungo and Mailleo, represented Rep. Deluca's cousin, and then board member, [REDACTED] against the School District. [REDACTED]

[REDACTED] I was also on the Board when I caught her and turned her in.

Page 20 States: ...the 2012 vote to rescind the resolution... the board

shamefully mismanaged \$130 million of public funds over the course of the prior three years...

RESPONSE: This should read two years. The voted referenced was in 2012, no charges were made to design or completion dates until 2010.

To realize what a sloppy, slanderous, waste of Taxpayer money this report is all you need to do is see that my name, Erin Vecchio, is mentioned more than anyone's, yet I WASN'T EVEN ON THE BOARD DURING THE ENTIRE TIME OF CONSTRUCTION !